

ORIGINAL

IN THE UNITED STATES DISTRICT COURT

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

FOR THE SOUTHERN DISTRICT OF GEORGIA

2008 FEB 20 AM 11:17

AUGUSTA DIVISION

CLERK *L. J. Anderson*
SO. DIST. OF GA.

SHEDRICK DELESTER JONES,)

Petitioner,)

v.)

CV 107-074

DON JARRIEL, Warden, and)

THURBERT BAKER, Attorney General,)

Respondents.)

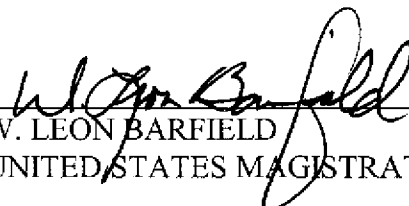
ORDER

Petitioner Shedrick Delester Jones filed the above-captioned case pursuant to 28 U.S.C. § 2254. The matter is now before the Court on Petitioner's "Motion for Voluntary Dismissal of Federal Habeas Corpus." (Doc. no. 16). Petitioner filed this motion in response to the Court's January 4, 2008 Order, which directed Petitioner to notify the Court if his prior "Motion Requesting Withdrawal Without Prejudice" (doc. no. 11) was actually a request to dismiss the above-captioned petition in its entirety. Petitioner now requests that his case be dismissed in its entirety without prejudice, so long as he can reserve the right to return to federal court at a future date.

Because Respondent Jarriel has filed an "Answer-Response" (doc. no. 12), and because Petitioner did not file a stipulation of dismissal signed by all parties, he must obtain

an order of the Court to have his case dismissed. See Fed. R. Civ. P. 41(a)(2).¹ However, the Court cannot grant the type of dismissal requested by Petitioner, namely with a reservation of the right to obtain federal review at a later date. The record reflects that, Respondent Jarriel has filed a motion to dismiss the petition as untimely. (Doc. no. 13). If the Court were to now dismiss the above-captioned petition at Petitioner's request, should he ever attempt to file another federal habeas corpus petition, the dismissal would not excuse him from having to comply with any applicable provisions of the Anti-Terrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, 110 Stat. 1214, including the one-year statute of limitation provision. See 28 U.S.C. § 2244(d). Accordingly, Petitioner's motion for voluntary dismissal is **DENIED**.² Petitioner shall have until the close of business on Monday, March 10, 2008, to file a substantive response to Respondent Jarriel's motion to dismiss. If no response is filed by Monday, March 10th, the Court will deem the motion to dismiss to be unopposed. Loc. R. 7.5

SO ORDERED this 20th day of February, 2008, at Augusta, Georgia.


W. LEON BARFIELD
UNITED STATES MAGISTRATE JUDGE

¹Under Rule 11 of the Rules Governing Section 2254 Cases, "[t]he Federal Rules of Civil Procedure, to the extent that they are not inconsistent with these rules, may be applied, when appropriate, to petitions filed under these rules."

²Petitioner's "Motion Requesting Withdrawal Without Prejudice" (doc. no. 11) is also **DENIED**.